

**FILED**

**APR 25 2014**

**Clerk, U.S. District Court  
District Of Montana  
Billings**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JUAN BAUTISTA-HERNANDEZ,

Defendant.

Cause No. CR 09-101-BLG-SPW

**ORDER DENYING MOTION TO  
REDUCE SENTENCE**

On April 17, 2014, the Court received from Defendant Bautista-Hernandez a letter seeking a 224-day reduction of his sentence based on time he spent in custody on a separate federal charge before the United States filed the charges underlying his conviction and sentence in this matter.

Bautista's letter was directed to Judge Shanstrom, who presided at sentencing. As Judge Shanstrom has since retired, the matter was reassigned.

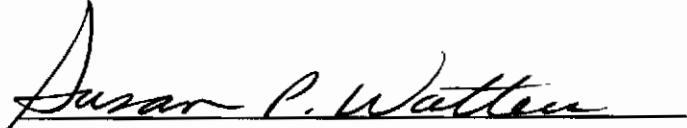
A court's authority to reopen proceedings in a criminal case to alter a judgment is limited. 18 U.S.C. § 3582(c). The Director of the Bureau of Prisons has not filed a motion to reduce Bautista's sentence. *Id.* § 3582(c)(1)(A). Bautista has not shown that an applicable guideline has been lowered by the Sentencing Commission. *Id.* § 3582(c)(2). The conditions of Fed. R. Crim. P. 35(a) or (b) have not been met. Bautista has not filed a motion to vacate, set aside, or correct the sentence under 28 U.S.C. § 2255. It is likely too late for him to do so now. *See id.*

§ 2255(f). At any rate, no legitimate claim for relief is evident; counsel sought credit for that time at sentencing. He was not successful on that point, but Bautista received a significant reduction in his sentence for other reasons. *See* Judgment (Doc. 121) at 2; Statement of Reasons (Doc. 122) (under seal) at 4 ¶ VIII. The Court is not aware of any other applicable statutory authority that would authorize reopening the proceedings in the criminal case on Bautista's motion. 18 U.S.C. § 3582(c)(1)(B).

The law does not permit the Court to reduce Bautista's sentence.

Accordingly, IT IS HEREBY ORDERED that Bautista-Hernandez's motion to reduce his sentence (Doc. 146) is DENIED.

DATED this 25<sup>th</sup> day of April, 2014.

  
Susan P. Watters  
United States District Court